



PATENT APPLICATION

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of

Docket No: Q63518

RECEIVED

Shinobu TANAKA

JUN 10 2004

Appln. No.: 09/883,279

Group Art Unit: 3652

GROUP 3600

Confirmation No.: 1528

Examiner: Fox, Charles A.

Filed: June 19, 2001

For: SINGLE LEVER WITH BUTTON FOR SELECTIVELY CONTROLLING EITHER
TILT OR LIFT OF A FORKLIFT MECHANISM

REPLY BRIEF PURSUANT TO 37 C.F.R. § 1.193(b)

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 1.193(b), Appellant respectfully submits this Reply Brief in response to the Examiner's Answer dated April 6, 2004. Entry of this Reply Brief is respectfully requested.

POINTS RAISED IN EXAMINER'S ANSWER

The Examiner's Answer raises issues regarding Appellant's "Arguments" (Section VIII.) set forth in the Appeal Brief. Appellant addresses the issues raised by the Examiner below.

Similar to the Final Office Action and the Continuation of the Advisory Action, the Examiner maintains that claim 1 recites that the second switching state allows for both enabling and disabling movement of the forks (pg. 4 of the Examiner's Answer). The Examiner,

however, appears to be omitting the portion of claim 1 which recites that lifting and lowering of the fork are prevented, “when said switch is changed from said first switching state to said second switching state.” The claim does not recite that lifting and lowering of the fork are prevented solely in the second switching state. Rather, it is the “change” of switching states, from the first to the second, that affects the lifting and lowering of the fork. Accordingly, Appellant again submits that the Examiner has misconstrued the recitations of claim 1.

The Examiner also cites to passages of non-limiting embodiments disclosed in the specification. Appellant notes that the first full paragraph set forth on pg. 5 of the Examiner’s Answer omits and/or incorrectly cites certain terms. Accordingly, for clarification, Appellant has reproduced the same paragraph below with the omitted and/or incorrectly cited portions bracketed and underlined.

“The controller 7 is configured in the following manner. When the operating lever 3 is operated while the switch 9 is kept to be operated, the action of tilting the mast 4 is obtained. When the switch 9 is released during this operation, an inhibiting circuit 72 shown in ~~figure~~Fig. 3 is activated so as to block the pulse generation in a pulse generating circuit 73, thereby stopping the tilting action of the mast 4 and the lifting or lowering action. When the ~~mast and lifting~~operating lever 3 is once returned to a neutral position, the inhibiting condition of the inhibiting circuit 72 which has been activated is cancelled, so as to attain a state where pulses generated by the pulse generating circuit 73 are enabled to be applied to the solenoid proportional control valve driving circuit 11.”

In regard to the cited passages, the Examiner maintains that the term “switching states” applies to the overall control system (i.e., controller 7), and not to the position of the switch (pg. 5 of the Examiner’s Answer). However, as set forth above, the switching states are changed based on whether the switch 9 is operated or released. In addition, claim 1 clearly recites that the

switching states refer to the switch (i.e., “said switch is in a first switching state,” “said switch is in a second switching state,” “said switch is changed from said first switching state to said second switching state”).

In addition, although the Examiner appears to be misconstruing the recitations of claim 1, the Examiner acknowledges that the specification supports the claimed switching states. For example, in the last paragraph on pg. 5 of the Examiner’s Answer, the Examiner maintains that the cited passages (i.e. non-limiting embodiments) show a switching state when the button is not pushed (e.g., the claimed second switching state), and a switching state when the button is pushed (e.g., the claimed first switching state).

Further, the Examiner asserts a switching state where, “the button is initially pushed and subsequently released during tilting of the operating lever.” (pg. 5 of Examiner’s Answer). Appellant submits that such release of the button during tilting of the operating lever is a non-limiting embodiment covered by claim 1. For example, claim 1 recites that the switch is, “changed from said first switching state to said second switching state while said operating lever is tilted.” The Examiner refers to the claimed “change” of switching states as a “third” switching state. However, irrespective of the term offered by the Examiner, the Examiner’s interpretation of the specification clearly indicates that the specification complies with the written description requirement. In addition, for similar reasons as set forth in the Appeal Brief, Appellant submits that the specification is also fully enabled.

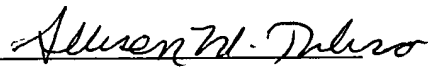
REPLY BRIEF
U.S. Application No.: 09/883,279

Attorney Docket No.: Q63518

CONCLUSION

For the above reasons as well as the reasons set forth in Appellant's Brief on Appeal, Appellant respectfully requests that the Board reverse the Examiner's rejections of all claims on Appeal. An early and favorable decision on the merits of this Appeal is respectfully requested.

Respectfully submitted,



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Date: June 4, 2004

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